



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

HMO/169095

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 01, 2015, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on October 22, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Department, by its agent iCare, properly reduced the Petitioner's personal care worker (PCW) hours.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Liz Bartlett

iCare  
1555 N. Rivercenter Drive  
Suite 206  
Milwaukee, WI 53212

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She is 58 years old and lives with family.
2. Petitioner's diagnoses include: osteoarthritis, vertigo, depression, high cholesterol, chronic pain.

3. On June 23, 2014, [REDACTED] completed a Personal Care Screening Tool (PCST) for the Petitioner. The assessor noted the following needs of the Petitioner:
  - Bathing – Level C – bathes self with supervision and physical intervention to ensure task completion. Petitioner has DJD to R knee and lower back. Arthritis in lower back. Pain 8/10.
  - Dressing – Level D – chronic pain; ambulates slowly; unable to bend. Petitioner with arthritis and chronic lower back pain; needs assist to put on underwear, socks and shoes.
  - Brace - Needs physical assistance with placement and removal of back brace; needs brace on to perform basic activities.
  - Grooming – Level F – Petitioner cannot comb or wash hair due to pain and arthritis
  - Eating – Level A - independent
  - Mobility – Level A - independent
  - Toileting – Level A – independent
  - Transferring – Level C – Petitioner with difficulty bearing weight to L knee.
  - Medication Assistance – Level B

A request for 2 hours, 45 minutes/day of PCW services was submitted based on the PCST.
4. On July 9, 2014, an independent assessment of the Petitioner was completed by [REDACTED]. The Petitioner's daughter/caregiver provided information. An assessor completed the PCST with the following findings:
  - Bathing – Level D – assist in/out of tub, assist with washing peri area and hair due to back pain.
  - Dressing – Upper - Level A – independent
  - Dressing – Lower – Level C – able to dress but needs assistance with socks and shoes
  - Brace – has a back brace that Petitioner applies herself
  - Grooming – Level A – denies need of assist to wash face/hands, brush teeth, shave, nail care, apply deodorant
  - Eating – Level A – independent
  - Mobility – Level A – independent
  - Toileting – Level A – independent
  - Transferring – Level A – independent
  - Medication Assistance – Level C – needs reminders
5. On July 14, 2014, the agency issued a notice to the Petitioner that 1 hour/day of PCW services was approved for bathing and lower body dressing. The notice also informed the Petitioner of the right to appeal the decision by filing a request for a hearing within 45 days.
6. On August 12, 2014, another PCST was completed by [REDACTED]. The assessor determined the Petitioner had the same needs as the PCST completed in June, 2014. The physician's order dated August 14, 2014 orders 1 hour/day of PCW services.
7. On December 5, 2014, [REDACTED] completed another PCST. It determined Petitioner's needs were the same as the June and August, 2014 PCSTs. A physician's order dated November 30, 2014 orders 1 hour/day of PCW services.

8. On June 3, 2015, [REDACTED] completed another PCST. It determined Petitioner's needs were the same as the June, August and December, 2014 PCSTs. A physician's order dated June 12, 2015 orders 1 hour/day of PCW services.
9. On August 3, 2015, [REDACTED] [REDACTED] [REDACTED] completed another PCST. It determined Petitioner's needs were the same as the previous PCSTs. A physician's order dated August 10, 2015 orders 1 hour/day of PCW services.
10. On September 22, 2015, the agency issued a notice to the Petitioner that 1 hour/day of PCW services was approved for bathing and lower body dressing.
11. On October 1, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

i-Care is required to provide or arrange for the provision of medically necessary and appropriate medical services for its enrollees as required under Wis. Stats. § 49.46(2), and Wis. Admin. Code § DHS 107(1). Wisconsin Administrative Code § DHS 107.112(1) states that Wisconsin Medicaid covered personal care services are those medically oriented activities that are related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.

To obtain a PA for personal care services, providers are required to submit documents to the MA program that accurately and completely demonstrate the need for the requested personal care services. Providers are to use the Personal Care Screening Tool (PCST) to determine the allocation of PCW time needed. The PCST is a tool that collects information on an individual's ability to accomplish activities of daily living, instrumental activities of daily living, medically oriented tasks delegated by an RN and the member's need for personal care worker assistance with these activities in the home. The PCST must be completed based on a face-to-face evaluation of the member in the member's home. The screener must directly observe the member performing the activity before selecting the member's level of need.

A Personal Care Activity Time Allocation Table is used by providers to assist in prorating time for service-specific activities provided by personal care workers.

The nurses that completed the Trinity Home Health PCSTs determined that the Petitioner requires 2.75 hours/day of PCW services. An independent assessor concluded in July, 2014 that the Petitioner requires 1 hours/day of PCW services. That determination was not appealed by the Petitioner. The physician's orders from August and November, 2014 and June and August, 2015 all prescribe 1 hour/day of PCW services.

At the hearing, the Petitioner presented no evidence that her needs or medical conditions have changed.

The agency is bound by the regulations and guidelines to approve time consistent with the physician's orders. See ForwardHealth Update No. 2011-02 (Exhibit 2). In this case, the physician has consistently ordered 1 hour/day of PCW services. The PCSTs and the allocation table support the physician orders.

Based on the evidence provided, I conclude the agency properly approved 1 hour/day of PCW services for the Petitioner.

### **CONCLUSIONS OF LAW**

The agency properly approved 1 hour/day of PCW services for the Petitioner.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

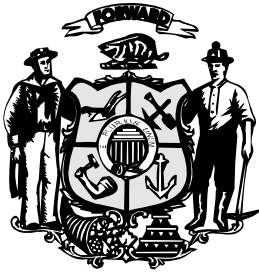
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 22nd day of December, 2015

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on December 22, 2015.

iCare

Division of Health Care Access and Accountability